



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: July 11, 2024  
MOAHR Docket No.: 24-005811  
Agency No.: [REDACTED]  
Petitioner: [REDACTED] [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on July 10, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Dania Ajami, Lead Eligibility Specialist.

**ISSUE**

Did the Department properly close Petitioner's Medical Assistance (MA) benefit case?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing MA recipient under the Ad-Care program.
2. On April [REDACTED] 2024, Petitioner completed a redetermination related to his MA benefit case (Exhibit A, pp. 7-13).
3. On April [REDACTED] 2024, Petitioner submitted verification of his bank account (Exhibit A, pp. 14-15).
4. On May [REDACTED] 2024, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his MA benefit case was closing effective May 1, 2024, ongoing, due to excess assets (Exhibit A, pp. 16-19).
5. On May 14, 2024, Petitioner submitted a request for hearing disputing the Department's actions.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner was an ongoing MA recipient under the SSI-related MA program, Ad-Care. On April █ 2024, Petitioner submitted verification of his checking account showing his balance was \$█. The Department testified that Petitioner's MA benefit case was closed due to excess assets.

Assets must be considered when determining eligibility under the SSI-related MA programs. BEM 400 (April 2024), p. 1. The Department considers cash, investments, retirement plans, and trusts. BEM 400, p. 1. Cash assets includes funds in a checking account. BEM 400, p. 15. For cash assets, the Department does not count funds treated as income by a program as an asset for the same month for the same program. BEM 400, p. 22. Additionally for cash assets, the Department will exclude potential homestead loss funds. BEM 400, p. 18. The Department will exclude funds an owner received for repairs or replacement of damaged or destroyed homestead if both of the following are true: (i) the owner intends to reoccupy the home; and (ii) there is a written repair/replacement agreement. BEM 400, p. 18. An asset group includes the individual and the individual's spouse. BEM 211 (October 2023), p. 8. The asset limit under the SSI-related MA programs for a group size of two is \$3,000. BEM 400, p. 7.

Upon review of Petitioner's bank statement, Petitioner received a payment on April █ 2024, in the amount of \$█ from the Social Security Administration (SSA). On April █ 2024, Petitioner received a payment in the amount of \$█ from the Federal Emergency Management Agency (FEMA). Petitioner testified that the payment from the SSA was his monthly social security income and the payment from FEMA was for repairs of damages to his basement from a flood that occurred on August █ 2023. Petitioner stated that he advised the Department of the payment from FEMA.

The Department failed to establish by a preponderance of evidence that it properly determined Petitioner's asset total. Petitioner's social security income should have been deducted from his asset total. Additionally, the Department failed to establish that the funds Petitioner received from FEMA should not have been deducted from his asset total.

as a homestead loss exclusion. Petitioner gave credible testimony that he advised the Department of the payment. The Department did not present any evidence that an attempt was made to verify whether Petitioner's FEMA payment satisfied the requirements under BEM 400 under the homestead loss exclusion. Thus, the Department failed to establish that it properly closed Petitioner's MA benefit case.

### **DECISION AND ORDER**

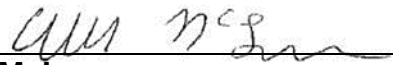
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA benefit case.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's MA eligibility as of June █ 2024, ongoing;
2. If Petitioner is eligible for MA benefits, provide coverage he is eligible to receive; and
3. Notify Petitioner of its decision in writing.

EM/dm

  
\_\_\_\_\_  
**Ellen McLemore**  
Administrative Law Judge

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via-Electronic Mail :**

**DHHS**  
Caryn Jackson  
Wayne-Hamtramck-DHHS  
**MDHHS-Wayne-55-**  
**Hearings@michigan.gov**

**SchaeferM**

**EQADHearings**

**BSC4HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Petitioner**

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